

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

**Petition of the Association for Local
Telecommunications Services (ALTS) for a
Declaratory Ruling Establishing Conditions
Necessary to Promote Deployment of
Advanced Telecommunications Capability
Under Section 706 of the Telecommunications
Act of 1996**

CC Docket No. 98-78

REPLY COMMENTS OF TELEPORT COMMUNICATIONS GROUP INC.

Teleport Communications Group Inc. ("TCG") hereby submits its reply comments regarding the above-referenced petition of Association for Local Telecommunications Services ("ALTS").

The comments filed in this proceeding underscore the need for this Commission to clarify that incumbent local exchange carrier (“ILEC”) are indeed obligated to provide competitive local exchange carriers (“CLECs”) with nondiscriminatory interconnection with and access to advanced telecommunications service networks, including the provision of data services. Some ILECs have challenged the applicability of Section 251 and 252 obligations to any facilities beyond those used to provide traditional voice telephony. As many of the commenters point out, however, these ILEC arguments require a strained interpretation of the Communications Act. Permitting ILECs to evade their Section 251 obligations with respect to advanced telecommunications services would essentially preclude CLECs from competing to provide these services. Therefore,

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the Commission should reject this statutory interpretation and declare that ILEC obligations under Sections 251 and 252, which must be met as a precondition to Section 271 approval, apply to interconnection with and access to network elements necessary for the provision of advanced data services.

U S West and GTE both argue that ILECs are not required to provide CLECs with data facilities. U S West attempts to limit the applicability of Section 251 obligations to the those circuit-switched facilities used to provide two-way voice communications.¹ GTE takes a similarly narrow view and asserts that ILECs have no statutory or regulatory requirement to provide ADSL-equipped loops.² Neither argument is supported by law or the realities of advanced telecommunications services. Indeed, it speaks volumes about the validity of these arguments that four RBOCs have now requested forbearance from Section 251 and 252 requirements. Only U S West declares in this proceeding that those obligations simply do not apply to high-speed data services.³

For example, the statutory unbundling requirement imposes a “duty to provide . . . for the provision of telecommunications service, nondiscriminatory access to network elements.”⁴ The definition of “telecommunications service” simply cannot be read to exclude all services but two-way voice communications over a circuit-switched network.⁵ First, “telecommunications” encompasses the

¹ U S West at 11-17.

² GTE at 8-11.

³ SBC characterizes conventional POTS and high-speed data service as “different markets” (at 4-7).

⁴ 47 U.S.C. § 251(c)(3).

⁵ Such a definition is completely illogical in the face of the Commission’s

transmission of "information of the user's choosing without change in the form or content of the information sent and received."⁶ No voice component is required. Second, "telecommunications services" are categorized as such "regardless of the facilities used."⁷ In this regard, the Communications Act, particularly Sections 251 and 252, does not prefer one technology over another – or, in this case, circuit-switched over packet-switched facilities.⁸ The unbundling obligation applies regardless of the network facilities deployed and the services provided over them.⁹

The argument that Section 251 obligations only apply to particular network facilities also fails based on factual analysis, because the distinction ignores the fact that advanced telecommunications services traverses most if not all of the existing circuit-switched network as technology develops. Intermedia aptly describes this evolution, stating that "existing facilities are being converted into packet-switched network extensions, making it possible to provide conventional voice telephony, as well as high capacity data services, over copper loops."¹⁰ xDSL

requirement that ILECs provide ADSL, HDSL, and ISDN conditioned loops as UNEs. Local Competition Order, 11 FCC Rcd 15494, 15691 (¶ 380) (1998). If "telecommunications services" were only to encompass voice services, the Commission would accomplish nothing by requiring access to loops used for high speed data services.

⁶ 47 U.S.C. § 153(44).

⁷ 47 U.S.C. § 153(46).

⁸ TCG concurs with the analyses of AT&T and MCI, concluding that the local competition provisions of the Communications Act make no distinction between broadband or data or basic telecommunications services. See AT&T at 4-8; MCI at 3-6.

⁹ See Commercial Internet Exchange Association at 8 ("Section 251 does not contemplate exemptions or exceptions from the ILEC's duty to interconnect with competing local networks that may carry data traffic.").

¹⁰ Intermedia at 3; see also MCI at 4 ("[T]here is no difference in the equipment used to provide voice or data services. Thus, there must be no limitations placed

technology is an embedded functionality of the loop, and therefore, this capability should not be stripped from the loop and denied a CLEC that requests access to the loop functionality as argued by GTE¹¹ – it is part an already specified network element. The Commission has already concluded that network elements, together with the features, functions, and capabilities associated with those facilities include these “embedded features” which “are part of the characteristics of that element and may not be removed from it.”¹² By clarifying that the xDSL functionality is “embedded” within its definition of a UNE loop, the Commission will appropriately encourage the development of advanced telecommunications capabilities consistent with to Section 706 of the Telecommunications Act of 1996.¹³

Thus each ILEC is required to provide access to its backbone network in a manner equal to that provided itself or affiliates. In the absence of regulatory oversight, including monthly reporting requirements, competitive carriers either will not be provided access to the backbone for these services, or they will not be able to determine whether the access that is provided is done so on a nondiscriminatory basis. Without these required regulatory safeguards, monopolist control over the bottleneck facilities used to provide advanced services will be perpetuated. The exercise of monopoly control does not produce the type of market environment conducive to the development of new services and technologies, in direct

on the use of the facilities CLECs lease . . . based on the type of traffic that passes over the equipment.”).

¹¹ GTE at 10.

¹² Local Competition Order, 11 FCC Rcd at 15632 (¶ 260).

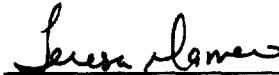
¹³ See e.spire Communications at 4 (“It is axiomatic that the ability to interconnect with competing service providers is as important to the development of data

contravention of the goals of Section 706. Contrary to Bell Atlantic's claim that adherence to ILEC obligations will stifle the development of advanced services,¹⁴ compliance with Section 251 obligations instead will encourage the market competition that is necessary to stimulate product innovation.¹⁵ This is the policy that must be followed in implementing Section 706.

For these reasons, the Commission should grant the ALTS petition and clarify that ILECs are obligated to provide interconnection with and access to unbundled networks for advanced services, in accordance with Sections 251 and 252, and as a precondition to interLATA service offerings under Section 271.

Respectfully submitted,

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competition as it has been to competition in local voice services.”).

¹⁴ Bell Atlantic at 6-8; see also BellSouth at 6-9.

¹⁵ See CompTel at 4-6.

CERTIFICATE OF SERVICE

I, Dottie E. Holman, do hereby certify that a copy of the foregoing Comments was sent by hand-delivery and first-class mail, as indicated, this 25th day of June, 1998, to the following:

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